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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,697	11/18/2003	Wayne J. Hamilton	02-1166	5390
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HUGH P. GORTLER			EXAMINER	
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Mission Viejo, CA 92692				
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			3656	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/715,697

Applicant(s)

HAMILTON, WAYNE J.

Examiner

TERENCE BOES

Art Unit

3656

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 7-10, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "low" in claim 7 is a relative term which renders the claim indefinite. The term "low" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The examiner notes the limitation "less than 30 degrees" has been amended out of claim 7, rendering the claim indefinite. It is now unclear from the claim as to what is encompassed by the term "low".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7, 9, and 15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Ovshinsky US 2,967,980.

Ovshinsky discloses:

- a first shaft (304); a spur gear (314) mounted to the first shaft;
- a second system including: a second shaft (302, 300),
- the first and second shafts having an angular variance greater than zero degrees (this can clearly be seen in figure 10);
- a low angle face gear (306, 310, 312) including a hub (306) mounted to the second shaft (300, 302)
- an angled gear flange (310) surrounding the hub (306), and a plurality of gear teeth (see 312 in figures 10 and 11) on the gear flange,
- the low angle face gear in mesh with the spur gear 312 is shown meshing with 314 in figure 10)
- wherein a first vector normal to an outside surface of the angular flange (see line which is normal to dash-dot line through gear teeth 312) and a second vector normal to the second shaft (axis of 300, 302) form an angle that is equal to the angular variance of the first and second shafts (this can easily be deduced upon viewing figure 10)
- wherein the teeth of the face gear are formed by a precision grinding method (product by process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps. See MPEP 2113).

Regarding claim 15,

- first and second shafts that are non-parallel (304, 300, 302);
- a spur gear on the first shaft (314);
- a face gear (306, 310, 312) on the second shaft,
- the face and spur gears in constant mesh (this can be seen in figure 4),
- the face gear including a hub (306) on the second shaft,
- an angled flange (310) around the hub,
- gear teeth (312) on the angled flange,
- the flange angled so the face gear achieves line contact with the spur gear when the gears are in mesh (this can be seen in figure 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-10, 14-16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokel USP 3,803,934 in view of Ovshinsky US 2,967,980 (as discussed above).

Yokel discloses:

- a first shaft (10); a gear (18) mounted to the first shaft;
- a second system including: a second shaft (40),

- the first and second shafts having an angular variance greater than zero degrees (C3/L15-20);
- a low angle face gear (44) including a hub mounted to the second shaft (40)
- an angled gear flange (see @ 44 in figure 1) surrounding the hub, and a plurality of gear teeth (these can clearly be seen in figure 1) on the gear flange,
- the low angle face gear in mesh with the gear (44 is shown meshing with 18 in figure 1)
- wherein the second system includes an engine (C2/L14-15) for driving the first shaft and a transmission (see transmission in abstract) driven by the second shaft
- wherein the teeth of the face gear are formed by a precision grinding method (product by process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps. See MPEP 2113).
- wherein the first and second shafts have an angular variance of no more than 30 degrees (C3/L15-20).

Regarding claim 15,

- first and second shafts that are non-parallel (10 and 40);
- a first gear on the first shaft (18);
- a face gear (44) on the second shaft,

- the face and first gears in constant mesh (this can be seen in figure 4),
- the face gear including a hub (see inside portion of gear 44) on the second shaft,
- an angled flange (see angle of flange of gear 44) around the hub,
- gear teeth (see gear teeth of gear 44) on the angled flange,

Yokel discloses meshing gears on angled shafts for transmitting motion. Yokel does not disclose a spur gear meshed with a low angle face gear. Ovshinsky teaches a spur gear (314) meshed with a low angle face gear (312) to transmit motion to an angled shaft. Because both Yokel and Ovshinsky teach meshing gears to transmit motion on angled shafts, it would have been obvious to one having ordinary skill in the art at the time of the invention to substitute gear pairs to achieve the predictable result of transmitting motion on angled shafts.

4. Claim 10, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Yokel USP 3,803,934 in view of Ovshinsky US 2,967,980, as applied to claim 8 above, and further in view of Stone et al. US 3,942,387.

Yokel in view of Ovshinsky discloses a low angle face gear transmission. Yokel in view of Ovshinsky does not disclose a transmission used in a rotary aircraft. Stone et al. teaches an angle face gear transmission used within a rotary aircraft (see helicopter in title). Because both Yokel in view of Ovshinsky, and Stone et al. teach angle face gear transmissions, it would have been obvious to one having ordinary skill in the art at the time of the invention to use a low angle face gear transmission within a rotary

aircraft to achieve the predictable result of transmitting power from an engine to a propeller.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TERENCE BOES** whose telephone number is (571)272-4898. The examiner can normally be reached on Monday - Friday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Terence Boes/
Examiner, Art Unit 3656

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656